

Mid-Ranking Bosnian Serb Politician Gets 32 Years

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Genocide charges dismissed in controversial sentencing judgement of Radoslav Brdjanin.

The Hague tribunal has sentenced former Bosnian Serb political leader Radoslav Brdjanin to 32 years in prison for crimes associated with the brutal campaign of ethnic cleansing that engulfed north-west Bosnia in 1992.

Opinions are divided over Wednesday's verdict, in which the judges dismissed the most serious charges – those of genocide and complicity to commit genocide.

While many observers – including victims' organisations – have criticised the judge's decision as too lenient, others described the sentence as comparatively high considering Brdjanin's mid-level status in the Bosnian Serb wartime political structure.

But the judges appeared convinced by the evidence shown in this five-year long trial that Brdjanin, who at the time served as the head of the Serb crisis staff, was "the driving force" behind the decisions of the Serb leadership in the area.

Brdjanin, a stocky 52-year-old with short greying hair, sat quietly while occasionally taking notes during the hearing, in which he was convicted of eight out of twelve counts of the indictment. After being asked to stand, he slowly smoothed the jacket of his charcoal suit with the palm of his hand and showed no visible reaction as his sentence was read.

The former Bosnian Serb leader was found guilty of wilful killing, persecutions, deportation, torture, wanton destruction of property, wanton destruction of cities, and destruction of religious institutions in the Autonomous Republic of Krajina, ARK, in 1992. This area covered large swaths of north-west Bosnia and was populated by Serbs, Croats and Muslims, none of whom had an overwhelming majority. It included also the municipality of Prijedor, once a home to a number of notorious Serb prison camps.

Brdjanin, a former engineer, acted as the president of the so-called Krajina crisis staff – a body set up to oversee the transformation of this area into a Serb-dominated territory. The crisis staff acted within the framework of a so-called Strategic Plan, with the aim of creating a separate Bosnian Serb state, from which most non-Serbs would be permanently removed.

In ensuring this, the sentence read, Brdjanin oversaw the institution of concentration camps, where inmates were tortured and raped, mass deportations and at least 1669 recorded murders of non-Serbs, as well as destruction of mosques and houses.

"The conditions of life imposed on the non-Serb populations of the Bosnian Krajina and the military operations against towns and villages which were not military targets were undertaken with the sole purpose of driving people away," the judgment read.

The public at large first heard about the crimes referred to in this indictment in 1992, when newspaper reports, photographs and television images alerted the outside world to the often desperate conditions facing thousands of detainees in camps such as Omarska, Manjaca or Keraterm. Tens of thousands of Bosnian Muslim and Croat refugees fled this area during the period of the indictment.

In his numerous public speeches and statements, Brdjanin hardly made a secret out of his aim to drive out non-Serbs from the region and create an ethnically “pure” Serb republic.

The trial chamber stated that Brdjanin’s propaganda campaign helped in “creating mutual fear and hatred and particularly inciting the Bosnian Serb population against the other ethnicities. Within a short period of time, citizens who had previously lived together peacefully became enemies and many of them... became killers”.

The prosecutors considered that the sum total of Brdjanin’s political activities qualified as genocide, but the trial chamber dismissed the charges at the end of the prosecution case. The appeals chamber, however, reinstated the charges.

Now the chamber has reasserted its decision and acquitted Brdjanin of genocide and complicity to commit genocide. The judges repeated that they could not establish “beyond reasonable doubt” that genocide had been committed in Bosnia Krajina.

The judges also ruled that while the number of deaths in the territory under his rule was high enough to constitute the crime of extermination, Brdjanin was unaware of the massive scale of murders. They therefore acquitted him of the charges of extermination.

The trial chamber also ruled that Brdjanin, despite of the fact that his crisis staff had “de facto authority over the municipal authorities and the police and influence over the army and paramilitary organisations” that operated in the region, it “did not have effective control” over them.

“Given the physical and structural remoteness between the accused and the relevant physical perpetrators” the court could not hold him “criminally responsible under the institute of joint criminal enterprise”.

But even with the heaviest charges dropped, the chamber still found that the available evidence proved that a large number of grave breaches of the Geneva convention, crimes against humanity and violations of the laws or customs of war took place in north-west Bosnia during the period of the indictment – enough to send Brdjanin to prison for effectively the rest of his life.

Reactions to the verdict were mixed. The Bosnia and Herzegovina Association of Detention Camp Inmates said on September 2 that it “welcomed the verdict and the sentence for war crimes handed down”. But other victims’ groups, including the Bosnian Commission for Missing People, have stated their outrage.

Many human rights observers and journalists who covered events in the region also told IWPR that the verdict is low given what they witnessed as outsiders visiting the region during the period of the indictment.

But the verdict points to a larger issue at the tribunal, said Roy Gutman, a journalist and a Pulitzer prize winner who chronicled the ethnic cleansing of Bosnia. Gutman suggested that in some cases the prosecution was over-ambitious with indictments given the evidence available.

In terms of the genocide charge, “obviously it was a reach as far as the court was concerned, from the get-go,” he said, describing Brdjanin as “a middle ranking figure, sort of the local manager”.

“That charge [genocide] ought to be reserved for the people at the top,” he added.

So far only one genocide sentence has been upheld all the way to the tribunal’s appeal chambers – that against Bosnian Serb officer Radislav Krstic, whose troops participated in the Srebrenica massacre of July 1995. The remaining genocide sentences are either in the appeal process or have been overturned by the court’s appeals chamber.

Curiously enough, in the Srebrenica case the judges ruled that the deportations together with around 7,000 killings showed intent to destroy a whole community and thus constituted genocide. In the Brdjanin judgment, however, the judges argued that despite nearly 1,700 recorded murders, the level of deportations and transfers was essentially antithetical to genocidal intent.

Bogdan Ivanisevic, Human Rights Watch researcher in Belgrade, agreed with the chamber’s interpretation that the strategic plan used in north-west Bosnia was not expressly intended to physically exterminate the population.

“Forcible transfer was not an additional means to ensure the physical destruction of Bosnian Muslims and Croats,” he told IWPR. “It was a goal in itself.”

Julie Mertus, a lawyer and professor at the American University in Washington and the author of *Kosovo: How Myths and Truths Started a War*, said she strongly disagreed with this reasoning.

“I thought it was outrageous to say that just because some men and women were forcibly deported as opposed to murdered, that there was no intent to destroy a population in whole or in part,” she told IWPR.

“When there are only forced deportations, there can be some question of genocide. But when there are also massive killings combined with propaganda, these are clearly the elements of genocide.”

The Office of the Prosecutor has not yet announced whether it intends to appeal against the trial chamber’s verdict.

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